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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,133	01/20/2004	Kazumi Kobayashi	P23847	6663
7055 7590 04/20/2009 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER				
AHMED, MASUD				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
04/20/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

### Office Action Summary

**Application No.**

10/759,133

**Applicant(s)**

KOBAYASHI, KAZUMI

**Examiner**

MASUD AHMED

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

Applicant has cancelled claim 27, therefore 101 rejection is moot. Upon submission of the certified foreign priority documents with the English translation applicant has overcome the previous rejection, therefor this office action is made Non-Final.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claim 22** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The methods recited in these claims include the judicial exception of an abstract idea (a method of controlling a virtual camera in a video game). No physical transformation is present to establish a practical application of the abstract idea.

As explained in the Interim Guidelines in view of *In re Bilski*, the first step in determining whether a claim recites patent eligible subject matter is to determine whether the claim falls within one of the four statutory categories of invention recited in 35 USC 101: process, machine, manufacture and composition of matter. The latter three categories define “things” or “products,” while a “process” consists of a series of steps or acts to be performed. For purpose of 101, a “process” has been given a specialized, limited meaning by the courts.

Based on Supreme Court precedent<sup>1</sup> and recent Federal Circuit decision, the Office's guidance to examiners is that a 101 process (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. ***This is called "machine-or-transformation test"***. If neither of these is met by the claim, the method is not a patent eligible process under 101 and should be rejected as being non-statutory subject matter.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitao (US 2001/0024972).**

**Regarding claims 1, 18, 22 and 26**, Kitao teaches a video game system with a virtual camera settings having following limitations:

A three-dimensional video game apparatus that perspective-transforms a virtual three-dimensional space where multiple characters exist onto a virtual screen based upon a virtual camera having a viewpoint position moved in response to positions of the multiple characters, comprising (para 0050)

A character mover that moves at least one of the characters in the virtual three-dimensional space (para 0052);

A central position calculator that calculates a central position of the characters in the virtual three-dimensional space (para 0053);

A temporary point setting device that sets multiple temporary points in the virtual three-dimensional space with reference to the calculated central position (para 0057);

A temporary viewpoint position setting section that sets a temporary viewpoint position on each straight line, connecting each of the temporary points to the central position, where all of the characters can be projected on the virtual screen with a predetermined visual angle (para 0058);

Kitao is silent on explicitly disclosing the temporary viewpoint position, however from the disclosure of Kitao it is evident that different viewpoint position is set for the multiple characters to be viewed within the display, for example character and the enemy characters movements are continuously calculated to detect their position on the display screen to be viewed by the players and the spectators of the game, therefore temporary points are merely a defined area centering the viewpoint which is defined as

predetermined area of Kitao and its within the knowledge of ordinary skilled artisan to set other viewpoints surrounding the central point so that within the line of sight all characters on the video screen is displayed.

A distance calculator that calculates a distance between each of the set temporary viewpoint positions and the calculated central position (para 0018);

A viewpoint position evaluator that evaluates each temporary viewpoint position based on each calculated distance (para 0018);

A viewpoint position selector that selects a position where the viewpoint of the virtual camera should be moved among the temporary viewpoint positions based on the evaluation result (para 0019);

A viewpoint position mover that moves the viewpoint position of the virtual camera to the selected position (para 0019); and

A perspective transformer that perspective-transforms the three-dimensional space onto the virtual screen based upon the virtual camera where the viewpoint position is moved (para 0020).

**Regarding claims 2-4, 19-20 and 23-24,** Kitao teaches the calculation of the angle to determine the view point of the virtual camera (para 0067); the overlapping degree for the characters to determine the temporary viewpoint of the player character along with the assigned reference points for the player characters (para 0069).

**Regarding claim 5, 21 and 25**, Kitao discloses a distance difference calculator that calculates the distance and based the temporary view point on the distance (para 0070), which can be looked at height difference as well.

**Regarding claim 6**, Kitao teaches a distance calculator that determines the distance between the view point of the camera and player character and it determines the differences of predetermined value (para 0067).

**Regarding claim 7**, Kitao teaches a view point position selector that can selects multiple viewpoints based on the data evaluation (para 0019).

**Regarding claims 8-9**, Kitao teaches a view point mover includes a controller switch to move the view point at a predetermined time (para 0075 para 0076).

**Regarding claims 10 and 12**, Kitao teaches the position movement of the view point of the virtual camera as directed from the viewpoint switching director controller (para 0078).

**Regarding claim 11**, Kitao teaches the camera angle can be moved or fixed and can be predetermined based on certain calculation and manipulation of the player character and the user's view angle, which also includes range limit and other parameters (para 0014).

**Regarding claim 13**, Kitao teaches a view point mover for moving the viewpoint of the camera (para 0019).

**Regarding claim 14**, Kitao discloses a fixed time interval for the moving the position of the camera view point (para 0015).

**Regarding claims 15-17**, Kitao teaches a central position calculator every time when player character position is switched, Kitao further teaches the different parameters such as size of the character along with character selector in the virtual environment to determine the different view point and character position (abstract and claim 10).

Applicant is respectfully requested to review entire prior art of record very closely to better distinguish and clarify the claim language over prior art of record.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MASUD AHMED whose telephone number is (571)270-1315. The examiner can normally be reached on Mon-Fri 10:00am-7:00pm, Alt Fri, EST.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571 272 4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714